WP(C) 3519/2005
BEFORE
THE HON'BLE MR JUSTICE HRISHIKESH ROY
JUDGMENT AND ORDER

Heard Mr A R Sikdar, learned counsel appearing for the petitioners. Also heard Mr R K Bora, learned Standing Counsel appearing for the respondent Nos 1, 2, 3, 4 & 6 and Mr B D Konwar appearing for the respondent Nos 7 and 8.

2. By the present writ petition, 11 (eleven) writ petitioners have challenged the action of respondent Nos. 7 & 8, who are the Secretary and President of 76 No. Jania Gaon Panchayat of Barpeta District. The allegation is that the selection made by the Gaon Panchayat of the beneficiaries, for receiving funds under the Integrated Rural Housing Scheme (for short, ' the IRHS') has been made without following the norms under the provisions of the Assam Panchayat Act, 1984 (for short, 'the Act').

3. Mr A R Sikdar, learned counsel appearing for the petitioners has drawn attention to Annexure 3 list dated 3.11.2003, containing the names of beneficiaries for the year 2003-04 under the Gaon Panchayat. This list contains 29 (twenty nine) names of beneficiaries under IRAS scheme and 5 (five) names of beneficiaries under the IRHS scheme.

It is submitted by the learned counsel for the petitioners that the respondent Nos 7 & 8 have disregarded the beneficiaries selected by the Gaon Panchayat and instead made available the benefits of the scheme to others, for extraneous consideration.

4. Mr. B D Konwar, learned counsel appearing for the respondent Nos. 7 & 8 has however submitted that in the list of 2003-04, some names, who were earlier selected in the year 2002-03, were also included. However, as the funds released by the Government was limited and was not enough to take care of all the persons mentioned in the list, the Gaon Panchayat selected 9 (nine) persons mentioned in Para-8 of the counter affidavit. These nine were short listed considering the requirement of including Scheduled Caste persons belonging to below poverty line category and such other relevant criteria. It is further contended that the 9 (nine) beneficiaries short listed were all included in the list of 2003-04 which was prepared by the Gaon Panchayat and which list has been made the basis for advancing submissions on behalf of the 11 (eleven) writ petitioners.

Mr Bora, the learned G A, Assam, has drawn attention to the provisions of the Assam Panchayat Act, 1984. It is submitted by the learned G A, Assam that under Section 4 (8) (b) the Gaon Panchayat is required to identify the beneficiaries for implementation of development schemes pertaining to the villages. Only if the Gaon Panchayat fails to identify beneficiaries within reasonable time, the Secretary and the President of the Gaon Panchayat together with the Block Development Officer, have the power to identify the beneficiaries.

It is further submitted by the learned G A that the funds earmarked for the Scheme in question is funded to the extent of 75 % by the Central Government and the remaining 25 % by the State Government.

5. The funds for disbursal under the scheme being limited, the responsibility of selecting the beneficiaries are left to the decision of the concerned Gaon Panchayat as it is the Gaon Panchayat, who would be int the best position to identify the most deserving beneficiary within the village.

6. In the instant case, what is found herein is that the Gaon Panchayat concerned has identified as many as 34 (thirty-four) beneficiaries who are entitled to receive the benefits under the scheme in question. It is further seen that as limited funds were available, and it was not possible to accommodate all the beneficiaries chosen by the Gaon Panchayat, a further short-listing of na

mes were made and eventually, 9 (nine) persons were selected for receiving benef its under the Scheme.

All the 9 (nine) persons are selected persons of the Gaon Panchayat and can be said to be persons selected under the provisions of the Section 4 (8) (b) of the Act.

7. In view of the aforesaid position and considering the fact that the funds are limited, the respondents Nos 7 & 8 had to leave out 25 of the 34 p ersons selected by the Gaon Panchayat, for making available the funds under the scheme.

8. It is submitted on behalf of the State as well as on behalf of t he respondents Nos 7 & 8 that those who could not be accommodated this time, wou ld naturally have the right of fresh consideration as and when further funds are available, provided they fulfill the criteria as applicable in terms of the pol icies laid down by the Government, at the relevant time. Accordingly, it is subm itted that, it is not the end of the road so far as the right to receive funds u nder the IRHS scheme, for the petitioners.

9. In view of the discussions made and especially in view of the fa ct that none of the 9 (nine) beneficiaries short listed are outside the list of beneficiaries selected by the Gaon Panchayat in terms of the provisions of Secti on 4 (8) (b) of the Act, I am inclined to hold that no interference is called fo r in the present case as no legally enforceable rights of the petitioners appear to have been violated by the impugned action of the respondents.

10. Accordingly, the writ petition is held to be without any merit a nd the same is accordingly dismissed.

The interim order passed earlier stands vacated.

JUDGE
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